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C O N F I D E N T I A L SECTION 01 OF 04 HONG KONG 001251

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TAGS: [PGOV](#) [PREL](#) [HK](#) [CH](#) [PINR](#) [PHUM](#) [ELAB](#)  
SUBJECT: DRL OFFICER RANA SIU'S VISIT TO HONG KONG: LABOR  
ISSUES (PART 1 OF 2)

REF: A. 05 BEIJING 01712  
[1](#)B. 04 HONG KONG 06604

Classified By: E/P Chief Simon Schuchat. Reasons: 1.4(b,d).

[1](#)1. (C) Summary: During a March 13-16 visit to Hong Kong, DRL Foreign Affairs Officer Rana Siu discussed labor issues with local NGOs and a mainland-based labor lawyer. Han Dongfang, Director of "China Labour Bulletin (CLB)," said that mainland local authorities have warned the families of industrial accident victims to refuse assistance from activist lawyer Gao Zhisheng. Elizabeth Tang, Chief Executive of the Hong Kong Confederation of Trade Unions (HKCTU), said that in 2004, local newspapers published an article listing all of the Hong Kong NGOs that had received grants from the National Endowment for Democracy. Fortunately, however, "no one was interested in these stories," said Tang. Labor lawyer Zhou Litai requested additional funding from the USG for various legal projects. Monina Wong, Director of Labour Action China (LAC), discussed LAC's campaign to assist mainland gemstone workers who have contracted silicosis. CLB, HKCTU, and LAC all reported difficulties working with their U.S.-based partner, the American Center for International Labor Solidarity (ACILS). This is the first of two cables reporting Siu's meetings in Hong Kong. End Summary.

"China Labour Bulletin": Gao Zhisheng  
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[1](#)2. (C) On March 14, DRL Foreign Affairs Officer Rana Siu discussed labor issues with "China Labour Bulletin" (CLB) Director Han Dongfang and Research and Communications Director Robin Munro. Beginning in 2003, CLB has provided legal assistance to selected mainland workers and their families affected by industrial accidents through its Case Intervention Program, explained Munro. One of the first mainland lawyers hired by CLB was Gao Zhisheng (ref A), who was asked to defend workers involved in a Dongguan shoe factory protest in the fall of 2004. Munro said Gao did a "masterful" job presenting the workers' cases and that all ten defendants were eventually released. In October 2004, CLB hired Gao to represent textile factory workers on strike in Shaanxi province. At the time, he was prevented from meeting with the workers and detained by local police for four days (ref B).

[1](#)3. (C) Over the past year, it had become increasingly clear to CLB, said Han, that Gao had become more outspoken and had taken on politically risky cases, including Falun Gong abuse cases. In October 2005, Gao published an open letter to President Hu Jintao and Premier Wen Jiabao criticizing the abuse of Falun Gong adherents. Although Gao is not a member of the Falun Gong, he has also published several articles in

the Falun Gong-owned newspaper, "The Epoch Times." Worried that Gao might be detained for his close ties with the Falun Gong, Han said that CLB had even tried to keep the lawyer so busy with their labor cases last year that he would have no time to take on Falun Gong cases. Despite their efforts, the authorities shut down Gao's law firm and revoked his law license. Nonetheless, Gao told CLB that he was willing to work as a consultant on a case involving a coal-mining incident in Shaanxi province in November 2005. Gao initially made contact with 40 victims' families; soon after, however, each of the 40 families separately contacted Gao and declined his offer of assistance. Han contended that local authorities warned each of the families to refuse Gao's assistance and likely told them that the lawyer was connected to the Falun Gong. Most of these families were scared off, said Munro, and were now somewhat suspicious of CLB's motives. Due to the negative publicity surrounding Gao, Munro and Han said that they were trying to distance CLB from the lawyer.

14. (C) Due to the Case Intervention Program's success in winning compensation for workers and raising the profile of labor issues, the CLB now would like to negotiate an annual retainer with a mainland law firm, said Munro. At present, each time CLB finds an appropriate case, the NGO has to approach an individual lawyer and explain CLB's mission and background. An annual retainer would resolve some of these logistical issues and would formalize a relationship between CLB and a single law firm. Separately, Munro and Han said that they have had problems communicating and working with their U.S.-based partner, the American Center for International Labor Solidarity (ACILS). Over the past year, Munro said that ACILS had made several abrupt and unreasonable requests to CLB regarding documentation of

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projects funded by the Human Rights Democracy Fund (HRDF) and did not pass on information in a timely manner regarding the HRDF's call for statements of interest. At one point, ACILS suggested to CLB that they apply for future grants with the American Federation of Teachers. Instead, CLB has decided to apply for 501(c)(3) (non-profit) status in the U.S. and will likely apply for a HRDF grant directly.

"China Labour Bulletin": Compensation for Workers  
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15. (C) CLB has also worked on assisting workers and their families affected by the November 27, 2005 mine explosion in Heilongjiang that killed 171 miners. During one of his programs on "Radio Free Asia," Han discovered that immediately after the explosion, the local authorities contacted all of the victims' families, asked them to come to their offices, showed them the body of their family member and asked them to sign compensation papers. Family members told Han that they were so distraught during this meeting, that they signed the documents without carefully considering the legal and financial implications. The victims' families were told that if they immediately signed the documents, they would be paid 200,000 renminbi (USD 25,000) for civil and social compensation, plus a 10,000 renminbi (USD 1,250) "bonus." Nearly all of the families signed the agreements presented by officials from the Qitaihe branch of the Longmei Mining Co., Ltd. One family member told Han that she "lost her mind" when confronted with the body of her relative and the compensation documents; Han described this tactic as "disgusting." Victims' families were further incensed when, during a particularly cold winter in Heilongjiang (almost 30 degrees Celsius below zero), they were refused additional heating fuel from the mining company. The company reminded families that they had already received all of their compensation.

16. (C) Recognizing an opportunity for case intervention work, Han asked several families if they were interested in suing for employer negligence. Many of the families told Han that

they were scared to participate in litigation against the company, especially since many of them had no plans to move to another town. However, the widow of one of the mining victims was willing to file suit against the company and had already moved to another city. If one of the victims of an industrial accident or their family member were to win a negligence case and won significant financial compensation in the range of a half a million renminbi (USD 62,500), said Han, then this court victory could become a real incentive for other workers to seek civil compensation for work-related injuries and death.

17. (C) CLB had limited resources, said Munro, and the NGO had to select its intervention cases carefully. CLB wanted to maximize the amount of compensation and publicity of a court win. For example, the mine explosion in Heilongjiang was an ideal case because the mining company is a state owned enterprise (SOE). If a victim sued a private mining company, the company could easily declare bankruptcy and never have to pay civil compensation; an SOE, on the other hand, was more likely to pay. When asked about the sensitivity of their litigation work in the mainland, Han said that, theoretically, the central government stood to gain from CLB's advocacy of public interest litigation. Especially in relation to mining safety, local authorities appeared to routinely ignore directives from the central government. A successful lawsuit would not only provide a template for future lawsuits and generate publicity about industrial accidents and civil compensation, argued Han, but it would also serve as a deterrent and warning to local authorities and mining companies.

18. (C) Separately, CLB is working with lawyers from Beijing University who are considering filing an environmental public interest suit in relation to the benzene leak into the Songhua River in Harbin. CLB is also working on the development of a code of conduct to be signed between workers and employers, which could become an alternative to a corporate social responsibility (CSR) agreement. A CSR agreement does not work, said Munro, because it is only an ethical agreement; instead, CLB advocates a collective labor contract between workers and company. If the code of conduct were violated, the workers could then go to court and sue for contract violation. CLB is currently in the process of pitching this idea to various multinational corporations operating in China.

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Hong Kong Confederation of Trade Unions

19. (C) On March 15, Elizabeth Tang, Chief Executive of the Hong Kong Confederation of Trade Unions (HKCTU), said that her organization had arranged seven conferences or seminars during the World Trade Organization's (WTO) Sixth Ministerial Conference in Hong Kong last December. With the arrival of so many activists to Hong Kong, HKCTU capitalized on the WTO event to educate the public on the impact of WTO on Hong Kong. Tang also noted that Hong Kong activists appear to have studied the tactics used by anti-globalization protestors. Imitating a protest conducted by South Korean farmers during the WTO, four poultry traders (all wearing life jackets) jumped into the Hong Kong harbor on May 14 to protest a government plan to restrict the number of chickens on Hong Kong's farms.

110. (C) Conducting program work in China was sensitive, contended Tang, so the HKCTU had passed along a mainland labor rights project to a local partner, the International Confederation of Free Trade Unions (ICFTU). Tang said that this move was necessary to deflect negative attention from HKCTU's Hong Kong programs. Separately, Tang said that around the time of the September 2004 Legislative Council elections, local newspapers published an article listing all of the Hong Kong NGOs which had received grants from the

National Endowment for Democracy. Fortunately, however, "no one was interested in these stories," said Tang.

¶11. (C) Tang added that over the past year, HKCTU had encountered some difficulties working with ACILS, their only U.S. partner. ACILS staff, complained Tang, had unilaterally changed documentation requirements several times over the past year. Moreover, it now took between six months to a year to be reimbursed, ultimately affecting HKCTU's cash flow. HKCTU had "no confidence to implement activities" because they were concerned that ACILS might not reimburse their projects, said Tang. As a result, HKCTU had placed some labor projects on hold.

Zhou Litai: Need Additional Funding  
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¶12. (C) On May 15, Zhou Litai, a labor lawyer with offices in Chongqing and Shenzhen, requested additional funding from the USG. Zhou explained that his law firm had taken on too many cases from other provinces, incurring high travel costs for his law firm. Additional funding would help cover these costs as well as enable Zhou to write a report analyzing the 6,000 plus labor cases that his firm has worked on. Zhou assured that such a report would be extremely useful to understanding mainland labor issues. Increased funding would also help develop his project to train lawyers in other provinces on the proper procedures involved in litigating worker injury cases.

Labour Action China  
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¶13. (C) In June 2005, Labour Action China (LAC) formally split from the Hong Kong Christian Industrial Committee (HKCIC) and registered as a separate NGO under the society ordinance in Hong Kong, explained LAC Director Monina Wong. HKCIC will continue to work on labor issues in Hong Kong but will not duplicate LAC's work on mainland labor issues. Five members originally from HKCIC, including Wong and one mainland employee, form the staff of LAC. Wong added that, by coincidence, her LAC colleagues did not necessarily have a "church background." HKCIC, on the other hand, will continue to get more of its direction and funding from local churches. Choi Yuk Yuk, also formerly a member of HKCIC, is now the head of Worker Empowerment, which has an office in Shenzhen and is funded by a European Union church group. According to Wong, all three organizations meet regularly and try to coordinate their programs so that there is no overlap of work. While there is no formal relationship between HKCIC and LAC, two members of HKCIC sit on the LAC board. Some of LAC's labor programs include: worker training, labor litigation and public campaigns to support mainland labor activists.

¶14. (C) One of LAC's programs has been its support of mainland jewelry workers' campaign against Lucky Gems and Jewelry, a Hong Kong-invested company, and other gemstone factories. (Note: Beginning in 2004, several mainland laborers working in Hong Kong-invested jewelry factories in

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Guangdong province claim to have contracted silicosis due to poorly ventilated workshops. Several Hong Kong NGOs including CLB, HKCTU, HKCIC and LAC have helped these workers seek compensation from their employers. LAC and other NGOs have raised public awareness of this issue by organizing protests at jewelry trade shows in Hong Kong. End Note.) Wong said that these mainland activists initially contacted Hong Kong NGOs only after exhausting all other legal means for compensation, including litigation, petitions, etc. She added that these activists, who were living with an incurable pulmonary disease, were extremely committed to their cause. Five of the original leaders of this campaign had died, but had been replaced by other organizers. However, it was not easy finding "second tier" leaders, said Wong, because the

majority of gemstone factory workers just wanted to take their one-off compensation and return to their home villages.

LAC is also in the process of approaching law schools in southern China that would be willing to waive tuition fees for two gemstone organizers to attend a paralegal program. With a better understanding of the law, organizers might be better positioned to assist other laborers seeking compensation, said Wong.

¶15. (C) According to Wong, ACILS had been helpful in helping LAC partner with qualified mainland lawyers and medical personnel in their silicosis campaign work. However, Wong stated that the financial reports recently required by ACILS were a "real headache." She added that there was now a new ACILS requirement to fill in a time sheet. This new requirement "doesn't make a lot of sense" and meant that there wasn't enough trust between LAC and ACILS. Reimbursement from ACILS for project work was slow and said that cash flow for the NGO was a "big problem"; some LAC colleagues were even paying out of pocket, Wong said.

¶16. (U) DRL Foreign Affairs Officer Siu cleared this message. Cunningham